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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,624	03/31/2004	Yuji Hamada	50024-036	3821
7590 04/24/2009 MCDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			EXAMINER GARRETT, DAWN L	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 04/24/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/813,624

Applicant(s)

HAMADA ET AL.

Examiner

Dawn Garrett

Art Unit

1794

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 19, 20, 22 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 19, 20, 22 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 13, 2009 has been entered.
2. The amendment filed April 13, 2009 has been entered. Claims 1, 20, and 22 were amended. Claims 2, 4-18, 21, and 23 are cancelled. Claims 1, 3, 19, 20, 22 and 24 are pending.
3. The rejection of claims 1-3 and 19-24 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ishihara et al., Journal of Photopolymer Science and Technology, Vol. 15, No. 5, (2002), p. 769-774 as set forth in the Office action mailed January 12, 2009 is withdrawn due to the amendment.
4. The rejection of claims 1-3 and 19-24 under 35 U.S.C. 103(a) as being unpatentable over Higashi (EP 1063869 A1) in view of Turner et al. (US 4,764,625) as set forth in the Office action mailed January 12, 2009 is withdrawn due to the amendment.

Claim Rejections - 35 USC § 102 and 103

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 19, 20, 22, and 24 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Qiu et al., Thin Solid Films, Vol. 372, (2000), pages 265-270.

Qiu et al. discloses EL devices comprising NPB hole transporting film (see page 267, second column, last sentence prior to section 4). The NPB compound was synthesized by an Ullmann reaction in the presence of copper and further purified (see page 266, first column, Section 2: "Experimental"). Because Qiu et al. discloses the same method of making NPB compound as set forth by applicant in the instant disclosure, the compounds obtained are considered to inherently have the same characteristics, including copper impurity levels, as set forth by applicant. See product-by-process discussion in MPEP 2113.

With regard to claims 19 and 24, regardless of a method of detecting impurities, the final product in the prior art is considered to meet all product limitations of the claims as required. The apparatus and method for detecting impurities do not effect the composition of the device product. In addition, ICP is a well known analytical method of elemental analysis as evidenced by Power et al. (US 5,756,786).

In the alternative that Qiu et al. does not *anticipate* the purity levels of the organic compounds of the claims, it would have been obvious to one of ordinary skill in the art at the

time of the invention to have purified and to have selected an organic phenylamino compound of a desired purity as one would expect a purer form of a compound to perform a better hole transporting function than an impure form of the compound in a device. The experimental modification of this prior art in order to ascertain optimum operating conditions fails to render applicant's claims patentable in the absence of unexpected results. Furthermore, it is obvious to purify a known compound (see MPEP 2144.04).

8. Claims 1, 3, 19, 20, 22, and 24 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Higashi (EP 1063869 A1).

Higashi et al. discloses organic electroluminescent devices with an organic compound layer having an impurity concentration of lower than 1000 ppm (see abstract). This impurity concentration encompasses the impurity range required by the present claims. The organic compounds may include phenylamino-containing compounds (see par. 49, 75-77 and 88-95). The electroluminescent devices include light emitting and carrier transporting layers per claim 3 (see par. 12). Higashi teaches N,N'-Di(naphthyl-1-yl)-N,N'-diphenyl-4,4'-benzidine as a hole transporting material (see par. 92, pages 34-35). Higashi further teaches the synthesis steps to make the benzidine compound uses copper powder (see par. 93). The compounds formed by the process would be expected to have a similar level of copper impurities as recited in the claims since the process used is similar to that described by applicant, because applicant does not recite or expressly disclose any specific process of achieving the claimed levels of purity beyond synthesis by an Ullmann reaction. Higashi further discusses impurities in paragraph 94, but the total impurities discussed include compounds in addition to residual copper powder.

With regard to claims 19 and 24, regardless of a method of detecting impurities, the final product in the prior art is considered to meet all product limitations of the claims as required. The apparatus and method for detecting impurities do not effect the composition of the device product. In addition, ICP is a well known analytical method of elemental analysis as evidenced by Power et al. (US 5,756,786).

In the alternative that Higashi et al. does not *anticipate* the purity levels of the organic compounds of the claims, it would have been obvious to one of ordinary skill in the art at the time of the invention to have purified and to have selected NPB compound of a desired purity as one would expect a purer form of a compound to perform a better hole transporting function than an impure form of the compound in a device. The experimental modification of this prior art in order to ascertain optimum operating conditions fails to render applicant's claims patentable in the absence of unexpected results. Furthermore, it is obvious to purify a known compound (see MPEP 2144.04).

9. Claims 1, 3, 19, 20, 22, and 24 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Matsuo et al. (EP 1231252 A2).

Matsuo et al. discloses EL devices comprising NPB hole transporting film (see page 3, par. 16 and 17). The electroluminescent devices include light emitting and carrier transporting layers per claim 3 (see Examples section). Ullmann reaction in the presence of copper and further purification is disclosed (see in particular par. 41-43, 70, and 75). Because Matsuo et al. disclose the same method of making NPB compound as set forth by applicant in the instant disclosure, the compounds obtained are considered to inherently have the same characteristics,

including copper impurity levels, as set forth by applicant. See product-by-process discussion in MPEP 2113.

With regard to claims 19 and 24, regardless of a method of detecting impurities, the final product in the prior art is considered to meet all product limitations of the claims as required. The apparatus and method for detecting impurities do not effect the composition of the device product. In addition, ICP is a well known analytical method of elemental analysis as evidenced by Power et al. (US 5,756,786).

In the alternative that Matsuo et al. does not *anticipate* the purity levels of the organic compounds of the claims, it would have been obvious to one of ordinary skill in the art at the time of the invention to have purified and to have selected NPB compound of a desired purity as one would expect a purer form of a compound to perform a better hole transporting function than an impure form of the compound in a device. The experimental modification of this prior art in order to ascertain optimum operating conditions fails to render applicant's claims patentable in the absence of unexpected results. Furthermore, it is obvious to purify a known compound (see MPEP 2144.04).

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Qui et al., Thin Solid Films, Vol. 372, (2000), pages 265-270. The rejection of claim 1 over Qui et al. is relied upon as set forth above. Qui et al. do not specifically discuss a separate luminescent layer in their experimental EL device, but do teach the devices emit light and set forth references to conventional EL devices in footnotes 1-12, which have luminescent layers for producing light (see page 265). It would have been obvious to one of ordinary skill in the art to have included a

luminescent layer in the EL devices taught by Qui et al. having a NPB hole transporting film, because one would expect to achieve light emission with a predictable result from the EL device.

Response to Arguments

11. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant alleges unexpected results with regard to the copper content. The examiner submits the data shown in instant Table 1 shows expected rather than unexpected results. Instant specification Table 1:

TABLE 1

copper atom content (ppm)	luminous efficiency (cd/A)	luminescent lifetime (hr)
1500	1.9	130
1100	2.0	150
800	2.9	170
500	3.3	350
200	3.9	400
100	4.0	400
80	4.0	415
40	4.1	420

As the impurity decreases, the luminescent lifetime improves. It is well known in the art that pure materials result in better devices that are not degraded by impurities (see for example previously cited reference Higashi et al., US 7,045,950, col. 1, lines 60-66 and Table 2).

The examples shown in instant Table 1 do not specifically describe how the copper atom impurity levels were obtained. Also, a clear comparison between the instant Table 1 examples

and the prior art has not been established. Additionally, applicant has not provided clear evidence that the compounds of the prior art (made by the same synthesis process) do not have the required copper atom impurity levels.

The examiner has provided a reasonable basis to believe that the prior art teaches the required characteristics. Applicant has appeared to argue throughout the prosecution history that the copper impurity levels are due to the Ullmann synthesis process for making the arylamine compounds. All of the claimed compounds, method of making the compounds (Ullmann reaction) and methods of purification of the instant disclosure were known in the prior art at the time of the invention. Burden is shifted to applicant to show evidence that the prior art does not comprise the characteristics and properties as claimed. Recitation of a newly disclosed property does not distinguish over a reference disclosure of the article or composition claims. *General Electric v. Jewe Incandescent Lamp Co.*, 67 USPQ 155. *Titanium Metal Corp. v. Banner*, 227 USPQ 773. Applicant bears responsibility for proving that reference composition does not possess the characteristics recited in the claims. *In re Fitzgerald*, 205 USPQ 597, *In re Best*, 195 USPQ 430.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dawn Garrett whose telephone number is (571) 272-1523. The examiner can normally be reached Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dawn Garrett/
Primary Examiner, Art Unit 1794